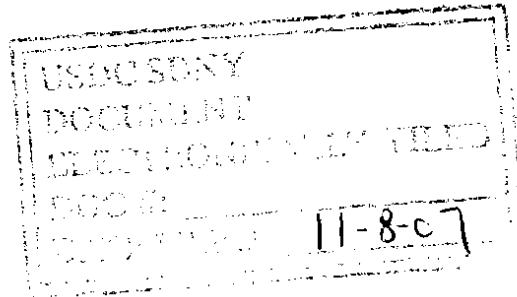


AC 3000, J

Norman C. Kleinberg (NK 2735)
 Theodore V. H. Mayer (TM 9748)
 William J. Beausoleil (WB 5296)
 HUGHES HUBBARD & REED LLP
 One Battery Park Plaza
 New York, New York 10004-1482
 (212) 837-6000

Attorneys for Defendant Merck & Co., Inc.

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK



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| -----X | |
| IN RE: | : |
| Fosamax Products Liability Litigation | : |
| -----X | : |
| <i>This Document Relates to:</i> | : |
| Betty Hamm | : |
| v. Merck & Co., Inc. | : |
| Case No: 1:07-cv-7292-JFK | : |
| -----X | : |

1:06-md-1789 (JFK)

STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Betty Hamm and Defendant Merck & Co., Inc., ("Merck") through their respective undersigned counsel, as follows:

1. This case having been resolved upon the agreement of Plaintiff to voluntarily dismiss without prejudice her claims against Merck in the above-captioned case and the agreement of Merck not to seek from Plaintiff its fees and costs, this case is hereby dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(ii).
2. Plaintiff further agrees to re-file any suit based on any similar claims related to Fosamax against Merck, any of Merck's subsidiaries, agents, distributors, employees, sales representatives, or against any pharmacy in this Court.
3. Each party is to bear its own costs and attorneys' fees.

Dated: October 21, 2007

LEVIN, PAPANTONIO, THOMAS,
MITCHELL, ECHSNER & PROCTOR,
P.A.

HUGHES HUBBARD & REED LLP

By 

Timothy M. O'Brien
Meghan Tans
316 South Baylen Street, Suite 600
P.O. Box 12308
Pensacola, Florida 32591
(850) 435-7084

Attorneys for Plaintiff

By 

Theodore V. H. Mayer (TM 9748)
One Battery Park Plaza
New York, New York 10004
(212) 837-6888

Attorneys for Defendant Merck & Co, Inc.

SO ORDERED:  11/8/07
Hon. John F. Keenan